29 October 1958

AWD/fmc

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT: Contractor's Security Clearance Revocation

1. This memorandum is for information only.

2. On 27 October, the Supreme Court accepted for review Greene v. McElroy, a case involving the validity of a security clearance revocation of a Government contractor's employee. Should the Supreme Court rule in Greene's favor on constitutional grounds, it would necessitate some administrative changes in the Industrial Security Program of the Defense Department, but we believe that this Agency's present system of requiring contractors to comply with security provisions included in their contracts would be substantially unaffected.

3. Greene was Vice President and General Manager of ERCO, a corporation which had as its main business Defense Department contracts. As a result of the Navy's revocation of his security clearance, he was dismissed from his $18,000 a year position and was forced to work elsewhere at a $4,400 a year drafting job. After numerous administrative hearings, the decision was affirmed and he brought suit in the District Court here. The District Court held in the Government's favor stating that there was no justiciable controversy: "It is fundamental that when one [ERCO] presumes to accept a contractual offer then that offer must be accepted in terms, and one of the terms here . . . related to security controls." On appeal the Circuit Court affirmed, pointing out in its decision that broad discretion in the Executive Branch is necessary in determining who should and should not get classified information where negotiated contracts are being entered into.

4. The lower courts found it unnecessary to decide this case on constitutional grounds. The Supreme Court, however, apparently is willing to consider Greene's complaint that secret information was used in denying him a security clearance which deprived him of work with his employer and which he claims violated the Fifth Amendment. Because this is a broad charge, it is difficult to predict what action the court will take on the constitutional issue, if any. Whatever the outcome, at most it could only affect the Agency indirectly. The system used by CIA in granting security clearances to contractors or their employees is not as complicated or formal as that used in the Defense Department. No matter what the outcome of the Greene case, if a security problem were to develop with a contractor of this Agency it probably could be resolved with the contractor through appropriate administrative arrangements, and the situation which occured in the Greene case would be prevented from developing.

STATINTL

Acting General Counsel

The Washington Post

THURSDAY, OCTOBER 30, 1958

# *Testing Civilian Loyalty*

It is a troubling situation that some 3 million civilians are presently screened by an industrial security program which not only employs anonymous accusers but also has a tenuous basis in legislation. The case of William L. Greene, which the Supreme Court has now decided to hear, raises some fundamental questions about this least-publicized of loyalty programs.

Mr. Greene had been a vice president of the Engineering & Research Corp. in Riverdale, Md., until the Navy forced him to lose his job in 1955 on the grounds that he could not be trusted with classified material. The irony is that most and probably all of the classified items being built by Erco were designed by none other than Mr. Greene himself. In challenging the Navy action, Mr. Greene faced the familiar nightmare of anonymous accusers and of charges based on secret information. One major source of Mr. Greene's troubles was apparently that his former wife was, in the Navy's language, an "ardent Communist."

Despite its broad powers to cost a man his livelihood, the industrial security program has no explicit authorization in law. Instead, the Defense Department contends that it has authority under the Armed Services Procurement Act of 1947 to classify information and decide who should have access to it. Thus each Defense Department contract contains a clause which gives the Government authority to clear all employes. It is cause for worry when even one loyal American not only may lose his job but also may bear an inescapable stigma under a system which lacks the safeguards of due process so basic to American justice.

Power wielded without the checks of due process can lead to injustices that outwardly seem not only irrational but absurd. Last week, for example, an employe of the Sperry Gyroscope Co. in New York said she had been dismissed as a "security risk" because she corresponded with relatives in Poland. The Government, Mrs. Catherine Kilmas said, explained in a letter that she might be subject to "coercion or pressure" because of her relatives. Whether or not this is the full story (and it is impossible to know because of the secrecy surrounding the case), her retort was poignant and disturbing: "I would never give my country away, or any secrets, regardless of torture to my family there. Besides, what secrets? I pack spare parts. I don't have any access to secrets. I don't see blueprints." It is good that the Supreme Court will review this system, upheld by lower courts, which can have such fateful consequences for the reputation and livelihood of Americans.

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REMARKS:

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FORM NO. 241 REPLACES FORM 99-8 (40)
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